App. F. IX-4

Previous References

192 7-28- (Pri)

File No. 63-27

Serial Nos. 1 and 2

Later References
Pris. 33-29 (1-4)

General and Revenue Secretariat.

Serial Nos. 2

Part B for May 29.

SUBJECT

Amendments to the Mysore Jail Manual regarding the carrying out of sentences subsequently passed on prisoners committed to jail for failure to furnish Security.

L. 2. No. G 10783-92 dt 26.2.29

To The I. G. of Prisons
The Registrar of Chief Court.
The District Magistrates of Districts

Sanctions the revised draft rule 213 (2) of the Mysore Jail Manual as approved by Chief Court for

N.N. 23.5.29.

3759 P&O/1

5-9-11

App. F [II—2]

General and Revenue Secretariat. File No. 63 of 1927

Serial No.

From the Inspector General of Prisons in Mysore

Bangalore

1 C 657-ED 21.1.28

forwards copy of letter from the Superintendent of Jail in connection with the carrying out of sentence subsequently passed on prisoners committed to Jail for failing to furnish Securities and requests to obtain the necessary orders of Govt. for altering Rule 273 of the Mysore Jail Manual if the views of the Superintendent is confirmed

W

1) Submitted for orders. The Law Secretary may perhaps be consulted

R 26/1

2 For favour of remarks

Prokesh for 28/1

3) The existing Rule 273 of the Jail Manual and the provisions of the Criminal procedure code bearing upon it are as follows:

NOTE—Continued.

	When an order requiring security is passed while the person is undergoing sentence (for an offence)	When the person is sentenced to imprisonment for an offenc while he is undergoing impri-sonment in default of furnish ing security.
Rule 213 Jail Manual	The period for which security is required shall commence on the expiry of such sentence and on failure to give security on or before date of expiry of such sentence, the person shall be detained in Jail until the expiry of the period for which security is to be furnished or until security is given. (Para (1) of the Rule)	Such sentence shall commence from the date on which it is passed and if it expires before the period for which the person is to be detained in Jail in default of giving security he should be detair for the remainder of such period. (Para (2) of the Rule)
Section 120 Criminal Procedure Code.	The period for which security is required shall commence on the expiration of such sentence. (Sub Section (1)	
Section 397 Criminal Procedure.		When a person already under going a sentence of impriso. ment, penal servitude or transportation is sentenced to imprisonment, penal servi tude or transportation, such imprisonment, penal servitu or transportation shall com-mence at the expiration of the imprisonment, penal serv tude or transportation to which he has been previously sentenced unless the Court directs that the subsequent sentence shall run concur-rently with such previous sentence. * * * Provided, further, that wher a person, who has been -- sentenced to imprisonment - by an order under section 12 in default of furnishing - security, is whilst under-going such sentence sentence to imprisonment for an of-fence committed prior to the making of such order, the - later sentence shall commenc immediately. [The underlined portion was added by the Amending Rep.]

S. 398 Cr. Pro. Code Sub Sec (1)

Nothing in Section 397 shall be held to exclude any person from any part of the punishment to which he is liable upon his former or subsequent conviction.

General and Revenue Secretariat. | Cr. File No. 63 of 192

Serial No.

X According to Rule 213 (2) of the Jail Manual, if a person is ~~sentenced~~ sentenced to imprisonment for an offence while he is undergoing imprisonment in default of furnishing security or ~~subsequent~~ ~~sent~~ later imprisonment runs concurrently with the imprisonment awarded for the offence, whether this offence was committed before or after the passing of the order requiring security. According to S. 397 Cr. Pro. Code as amended, it seems that the subsequent sentence cannot in any case run concurrently with the previous sentence unless the Court awarding the subsequent sentence so directs. The new proviso to S. 397 Cr. Procedure lays down further that if the offence for which the subsequent sentence is awarded is one committed prior to the order requiring security, such sentence shall commence immediately. The object of this proviso, as explained ~~by~~ in the report of the Select Committee of Indian Legislature, is that in such cases the sentences shall

X Extract given in Commentary under S. 397, in Woodroffe's Cr. Pro. Code.

NOTE—Contn. sheet

Serial No.

ordinarily run concurrently." But in cases where the offence is committed after the order under S. 123 has been passed eg. cases of escape from custody or jail or of offences committed in jail — the imprisonment for the subsequent offence should ordinarily not be concurrent ^ otherwise the prisoner might in some cases receive no further punishment for his subsequent offence." To make the object of the section as thus explained, the language of Section 397 ^ the new proviso + also S. 398 seems to mean that the sentence for the offence & the previous sentence for not furnishing Security can run concurrently only if so ordered by the Court, whether the offence was committed prior to or after the passing of the order requiring Security and that ^ in the absence of such an order the subsequent sentence for an offence ^ shall commence immediately on ^ After the expiration of the imprisonment in default of furnishing Security. If this view is approved

9

NOTE—Contn. sheet

3739 6 5

App. F. III—2]

General and Revenue Secretariat. File No. 63 of 192).

Serial No.

9568/16/5

a draft of Rule 213(2) of the Jail Manual as it is to be revised, will be submitted

Secy) 2/3 8/3

5 The rules do are not in Conformity with the provisions of Cr. P. C

~~Draft~~ Rules may be revised ~~draft enlarge~~, put up. a draft.

6) 8/3 10/4. m

Revised ~~Draft~~ rule 213(2) of the Jail Manual ~~be~~ ~~revise~~ to put up.

7 If appd, the Chief Court also be Consulted.

A 10/5

11/5/15 8 The draft put up is in accordance with the provisions of the Cr. Procedure.

Secy) m 14/5

9 ~~Draft~~ Draft may be appd 8/3 15/5 m

1st item

Chief Court may also be consulted

10) Secy 17/5

11) Draft 17/5 m 17/5

NOTE—Contn. sheet

37396/812 6

App. F. III—2]

General and Revenue Secretariat. File No. 63 of 1927-8

Serial No.

12 D/m ordered

19/8 13 Recd 21/8

24/8/28

To the Registr Chief Court
No P7014 D 25.8.28.
Calls for the opinion of the Chief Court as to whether the draft rule is suitable
Letter No 1415 of 14.8.28 from the Registrar Chief Court forwarding the draft of rule 213 (2) of the Mysore Jail Manual Vol I as approved by the Chief Court.
U/for orders

Jus 22/8

1

18/8 1) The 1st para of the draft Rule proposed by the Chief Court is incomplete. for instance, a person who has been ordered to undergo imprisonment for one year under S-123 Cr. Pro code may, ~~escape from jail~~ when he has served only a portion of this sentence ~~has undergone~~ say one month, be sentenced to six months' imprisonment for an offence committed before the order under S-123 Cr. Pro. code

—Contn. sheet.

General and Revenue Secretariat. File No. 63 of 192

Serial No.

was passed. The latter sentence, according to the new proviso to S. 397 Cr.P.C., commences immediately and expires long before the expiring of the earlier sentence. The question will then arise whether the remainder of the earlier sentence is to be served by the person is 11 months or only 5 months. In the ordinary course, in view of S. 398 (1) Cr.P.C., it is 11 months and this period is reduced to 5 months only if the Court passing the

a | subsequent sentence has, in the exercise of the discretionary power under the amended S. 397 Cr.P.C., ordered that it should run concurrently with the earlier sentence under S. 123 Cr. Procedure. Para 1 of the Chief Court's draft does not provide for cases of this kind. It is therefore necessary to add the following words at the end of this para: "and it shall run concurrently with the previous sentence only if the Court so directs."

We approve. The file will be returned to the Board for issuing the revised rule suggested by the Bombay Govt., with the addition indicated above.

3296/24/9

27/8

Secy 17

Send back from Secy's office. Submitted for orders

24/9

NOTE—Contn. Sheet.

WD 01714—GPE—30,000—18-4-28 (3rd Member)

General and Revenue Secretariat. | Ch File No. of 192

Serial No.

(1) Rearranged draft rules finally revised by us

25/9

3/25/4

(2) Typed draft rule as revised finally is submitted

9/10 (3rd Memo)

9/10/27

9/10

(3) 20) My draft appears to be all right. Kindly please consult the Chief Court officially for favouring their opinion. — By

9/10

(4) Forwarded, with Compliments to the Registrar, Chief Court, with reference to paragraph 20 above

By order

Narasimhaiya

for Secy to Govt

10/10/28 Law Dept

C.O. No. P 80/27
of 10-10-28.

CHIEF COURT
10 OCT. 1928
OF MYSORE.

Cno. 1415/27-28
of 20-10-28

(5) Returned with compliments.

The Assistant Secretary is of opinion that the 1st para of the rule is incomplete without the words "and it shall run concurrently with the previous sentence only if the Court so directs" The reason given

Rec No: 1415/27-28
of 15-12-1928

NOTE—Contn. Sheet.

WD 01714—GPB—30,000—18-4-28

Serial No.

given by him is that under Sections 397 and 398(1) of Criminal Procedure Code, a person undergoing a sentence of imprisonment by an order under section 123 is again convicted of an offence committed prior to the making of such order and sentenced to imprisonment, the subsequent sentence should commence immediately(a) only if the Court orders that it shall run concurrently with the previous sentence.(a) There is nothing in the language of the sections to -- warrant such a construction. Under Section 397 the Court is given discretion to order that a subsequent sentence may run concurrently with the previous sentence. The 2nd Proviso to that section takes away the above said discretion vested in the the Court altogether in the case mentioned in that proviso. Therefore, in cases falling under the 2nd proviso to Section 397 the Court has no discretion whatever to exercise, for it clearly lays down that the latter sentence shall commence immediately.

The Assistant Secretary seems to be under the the impression as is seen in the illustration given by him, that the effect of the words "shall commence immediately" is that when the latter sentence commences the former sentence automatically stops and does not continue to run unless the Court orders that the sentence shall run concurrently. This impression is not correct, for the reference in Section 397 is to the subsequent sentence and not to the previous sentence. The section does not mention that

(a) The language of the second proviso to S. 397 is quite plain and does not admit of the addition of this condition. And I have not stated that the immediate commencement of the subsequent sentence is subject to this condition. What I have stated is that the concurrent running of the two sentences is subject to the condition as to discretion that effect by the Court passing the subsequent sentence.

* Now does the Section say that the first sentence runs concurrently with the second.

WD 021—GPB—30,000—21-8-28

59.1 (2)

that the first sentence stops; nor does it enable the Court to order that the previous sentence shall stop during the running of the subsequent sentence. The previous sentence runs continuously whether the subsequent sentence is made to run concurrently with, or consecutively to, it.

In the above view Section 398(1) to which reference was made in the note of the Assistant Secretary does not appear to have bearing on the question. The Judges are therefore of opinion that the addition made in the Secretariat to the 1st para of the draft Rule is unnecessary.

REGISTRAR,
Chief Court of Mysore.
15/12/28

17-12

The only question is whether "the latter sentence shall commence immediately", in the second proviso to S-397, or within also means that that sentence shall run concurrently with the former sentence and whether it can be understood in this sense consistently with S-398(1). As the Chief Court's view is that S-397 conveys only this meaning and that S-398(1) has no bearing on it, orders are requested as to whether the ~~draft~~ ~~proposed~~ ~~by~~ ~~the~~ ~~Govt~~ ~~for~~ ~~issuing~~ ~~Public~~ ~~Notification~~ may be returned to the Govt. Secty for issuing the draft proposed by the Chief Court.

Secy)
Govt Secy
With Compts

29/12

RR/1/29

× The subsequent sentence "shall commence immediately" & the consequential provision with regard to the continuance of its running concurrently to the previous sentence cannot therefore arise.

App. F. III—2]

General and Revenue Secretariat | Prisons File No. 63 of 1929.

Serial No.

RECEIVED
18 FEB 1929
No. 3696

Draft Circular for approval
5/2/29
9/1/1071 Genl Secy
Dcg 11/1/29

For approval
Rg 11/2/29

C.W.J. Sd. 24
Rg 15/1/29
Dcg

845 3rd member
14/2

with Jail Manual

Ag
15/2/29

For perusal
Dewan

Rg 16/2
Dcg

Mg 18/2/29

Rg 19/2

Issue
Dcg 19/2/29

2 To the Jt. of Prisons, Registr of Chief Court, Distt. magistrates of Distts.
No 10783-92 dt 26.2.29
Sanctions the revised draft rule 213(2) of the Punjab Jail Manual as altered by Chief Court

Printed
R.D. 2/3
B 22/5/29

NOTE—Contn. sheet

Pris 63-27-1

No 65-7-2 Office of the Inspector-General of Prisons

In Mysore,

Dated Bangalore, 19 January 1928.

From

The Inspector-General of Prisons

in Mysore, Bangalore.

To

The General Secretary to the Government

of H.H. the Maharaja of Mysore,

Bangalore.

Sir,

In forwarding herewith, for favour of perusal, copy of letter No. 2069/F. 54 dated 26th December 1927 from the Supe intendent, Bangalore Central Jail in connection with the carrying out of sentences subsequently passed on prisoners committed to Jail for failing to furnish security, I have the honour to request that you will be so good as to obtain necessary orders of Government for altering rule 213 of the Mysore Jail Manual, if the view taken by the Superintendent in the matter is confirmed.

I have the honour to be,

Sir,

Your most obedient servant,

Inspector-General of Prisons

avl

V

Letter No.2069/F. 54 dated 26th December 1927 from the Superintendent, Central Jail, Bangalore, to the Inspector-General of Prisons in Mysore, Bangalore.

-*-*-*-*-*-*-*-

I have the honour to bring to your kind notice that under Rule 213 (2) of the Mysore Jail Manual any sentence passed on conviction of an effence upon a prisoner who is already undergoing imprisonment in default of furnishing security shall commence from the date on which it was passed and in practice both the imprisonments run concurrently; while under the new proviso to Sec.397 Cr.P.C. (vide Para 93 (ii) on page 129 Part III Mysore Gazette dated 14-4-1927) imprisonment for an offence committed prior to the passing of an order failing to furnish security shall commence immediately.

I understand the new proviso to mean that, in the case of conviction of an offence committed prior to the passing of an order of imprisonment failing to furnish security both the sentences are to run concurrently and in all other cases conviction for an offence should run after expiry of the sentence for failing to furnish security.

If this view be confirmed, then the Magistrates should be asked to note in such warrants the date on which such Offences were committed and the wording of Rule 213 (2) of the Mysore Jail Manual has to be altered along with the present practice where the prior Security sentence and subsequent substantive sentence run concurrently irrespective of the priority of date of the substantive offence

-*-*-*-*-*-*-*-

" C O P Y "

Inspector-General of Prisons
19th January 1928.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE,

General and Revenue Secretariat,

Dated, Bangalore,.....

No.

From

The Secretary to Government,
Law Department.

To

T. Singaravelu Mudaliar,Esq,B.A.B.L.,
Registrar, Chief Court,Bangalore.

Sir,

I am directed to forward herewith copy of letter No.2069/F.24 dated 26th October 1927 from the Superintendent, Central Jail to the Inspector General of Prisons in Mysore together with a draft of rule 213(2) ~~"(2)~~ of the Mysore Jail Manual Vol.I as proposed to be revised ~~and to be~~ in conformity with the amended Sec. 397 of the Criminal Procedure Code and to request you to be so good as to favour Government with the opinion of the Chief Court as to whether the draft rule is suitable.

I have the honour to be,
Sir,
Your most obedient servant,

For Secy.to Govt. Law Dept.

draft for the file TD

Dft.

Dft. of rule 213 (2) of the Mysore Jail Manual Vol. 1 when revised will be as follows:

If a person while undergoing imprisonment in default of furnishing Security is convicted of an offence and sentenced to imprisonment, such sentence shall commence immediately or after the expiry of the period for which he is being detained in default of giving Security, according as the offence was committed prior to or after the making of the order under Sec 123 of the Cr. P Code unless the Court directs that the subsequent sentence shall run concurrently with the previous sentence; and in the former case the absence of such direction, the subsequent

sentence should expire before the
period for which the person is to
be detained in default of
giving security under section 123 CrPC he shall
be detained ~~under~~ be detained under that section
~~See 123 Cr. P.C~~ for the remainder
of such period

M
14/5

A. P. F. VI. 61j

SUBJECT.....

.....

.....

Section 3b —

File No.

Serial No.

No. 7014(2)

To The Regr - Ch - Court

Diary No. of letter replied to.....

General and Revenue Secretariat

( )

the *192*

Date of issue 25/5/28

Signed by M-P-B

Sir

I am directed to ~~forward herewith copy~~ letter no 2069/7-24 ~~dated 18th Oct 24 from the Supdt, Central Jail Vellore~~ ~~Sig~~ Prisons in response to ~~his~~ the ~~letter~~ a ~~draft~~ ~~note~~ ~~for~~ ~~orders~~ ~~to issue~~ ~~Govt~~ ~~sanctioned~~ ~~Govt~~ ~~Sanction~~ in conformity with the amended S. 397 of the Cr. Procedure ~~Code~~ ~~to be issued~~ ~~Govt~~ ~~sanctioned~~ ~~Govt~~ ~~Sanction~~ State that on a ~~Petn~~ received from the Dy of Prisons it is found necessary to revise Rule 213 (2) of the Mysore Jail Manual as proposed by the Govt Vol I and ~~requests~~ requests you to be so good as to ~~favour~~ favour him with ~~your~~ the opinion of the Chief Court as to whether the ~~of~~ the rule is suitable

List of enclosures.....

Copied by

Examined by .....

By order

for Secy to Govt

~~[illegible]~~

Please see

For Sec Wright

Law Dept

19/5

812
P 828

Telgm :
"JUSTICE"

CHIEF COURT OF MYSORE.
Public Office Buildings, Cubbon Park.

Bangalore, 14th August 1928

R. O. C. Dis. No. 1415 / 27-28 Ext. Gme

FROM

T. Singaravelu Mudaliar, Esq., B.A., B.L.,
Registrar, Chief Court of Mysore.

To

B. NAGAPPA, Esq., Bar-at-law,
Secretary to the Government of
His Highness the Maharaja of Mysore,
Law Department, BANGALORE.

17.8
2
15
1928

SIR,

With reference to your letter No. P.7014 (2) Cts. dated 25th May 1928 forwarding a draft of Rule 213 (2) of the Mysore Jail Manual Vol. I as proposed to be revised in conformity with the amended Section 397 of the Criminal Procedure Code and requesting the opinion of the Chief Court as to whether the draft rule is suitable, I am directed to state that the proposed draft of the Superintendent Central Jail, Bangalore does not make the point clear and to forward herewith a draft of the rule, as approved by the Chief Court.

I have the honour to be,

Sir,

Your most obedient servant,

T Singaravelu

REGISTRAR.

TAN

Ad

7

DRAFT RULE.

213 (2) " If a person while undergoing imprisonment by an order under Section 123 is convicted of an offence committed prior to the making of such order and sentenced to imprisonment, the subsequent sentence shall commence immediately.

If such a person is convicted of an offence committed subsequent to the making of such order and sentenced to imprisonment the subsequent sentence of imprisonment shall commence at the expiration of the previous sentence unless the Court directs that the subsequent sentence shall run concurrently with such previous sentence.

Whenever in the above cases the subsequent sentence runs concurrently with the previous sentence and expires before the period of the previous sentence the prisoner should be detained for the remainder of the period of the previous sentence.

REGISTRAR.

ad.

8

DRAFT RULE.

*(of the Mysore Jail Manual Vol I.)

213 (2) If a person while undergoing imprisonment by an order under Section 123 is convicted of an offence committed prior to th making of such order and sentenced to impriso ment, the subsequent sentence shall commence immediately and it shall run concurrently wit the previous sentence only if the Court so directs.

If such a person is convicted of an of- fence committed subsequent to the making of such order and sentenced to imprisonment, the subsequent sentence of imprisonment shall com mence at the expiration of the previous sente unless the Court directs that the subsequent sentence shall run concurrently with such pre vious sentence.

Whenever in the above cases the subse- quent sentence runs concurrently with the previous sentence and expires before the - period of the previous sentence, the prisoner should be detained for the remainder of the period of the previous sentence.

for Secretary to Govt
Law Dept

Pris 9 63-27-2

Proceedings of the Government of His Highness the Maharaja of Mysore.

Read:-

Letter No. C. 657-2 dated the 21st January 1928 from the Inspector General of Prisons in Mysore forwarding copy of letter from the Superintendent, Bangalore Central Jail in connection with the carrying out of sentences subsequently passed on prisoners committed to Jail for failing to furnish security and requesting orders of Government for altering Rule 213(2) of the Mysore Jail Manual in conformity with the amended Section 397 of the Cr.P.C.

2. Correspondence ending with u.o. Note No.ROC.11415/27-28 dated 15th December 1928 from the Registrar of the Chief Court of Mysore forwarding a revised draft of Rule 213 (2) of the Mysore Jail Manual as approved by the Chief Court.

Order No. G. 10783-92

Dated Bangalore, 26.2.29.

Government are pleased to direct that ~~the following~~ clause 2 of Rule 213 of the Mysore Jail Manual be amended so as to read as follows:--

"213(2). If a person while undergoing imprisonment by an order under Section 123 of the Cr. P.C. is convicted of an offence committed prior to the making of such order and sentenced to imprisonment, the subsequent sentence shall commence

immediately

10

If such a person is convicted of an offence ~~office~~ committed subsequent to the making of such order and sentenced to imprisonment, the subsequent sentence of imprisonment shall commence at the expiration of the previous sentence unless the court directs that the subsequent sentence sh run concurrently with such previous sentence.

Whenever in the above cases, the subsequent sentence runs concurrently with the previous sentence and expires before the period of the previous sentence, the prisoner should be detained for the remainder of the period of the previous sentence."

R.D. 19/2/29.

Dec 24/1/29 General Secretary to Govt.

Ord

To

The I.G. of Prisons.

The Registrar of the Chief Court of Mysore.

The District Magistrates of Dists.

CP.

S. O.

Government of his highness the Maharaja of Mysore.

GENERAL AND REVENUE DEPARTMENTS.

G. O. No. G. 10783-92—Pris. 63-27-2, dated 26th February 1929.

Amendments to the Mysore Jail Manual.

Orders certain — regarding the carrying out of sentences subsequently passed on prisoners committed to Jail for failure to furnish security.

READ—

Letter No. C. 657-2, dated the 21st January 1928, from the Inspector-General of Prisons in Mysore, forwarding copy of letter from the Superintendent, Bangalore Central Jail, in connection with the carrying out of sentences subsequently passed on prisoners committed to Jail for failing to furnish security and requesting orders of Government for altering Rule 213 (2) of the Mysore Jail Manual in conformity with the amended Section 397 of the Criminal Procedure Code.

2. Correspondence ending with un-official note No. Roc. 1415—27-28, dated 15th December 1928, from the Registrar of the Chief Court of Mysore, forwarding a revised draft of Rule 213 (2) of the Mysore Jail Manual as approved by the Chief Court.

ORDER NO. G. 10783-92—PRIS. 63-27-2, DATED 26TH FEBRUARY 1929.

Government are pleased to direct that the following clause 2 of Rule 213 of the Mysore Jail Manual be amended so as to read as follows:—

"213 (2). If a person while undergoing imprisonment by an order under Section 123 of the Criminal Procedure Code is convicted of an offence committed prior to the making of such order and sentenced to imprisonment, the subsequent sentence shall commence immediately. If such a person is convicted of an offence committed subsequent to the making of such order and sentenced to imprisonment, the subsequent sentence of imprisonment shall commence at the expiration of the previous sentence unless the Court directs that the subsequent sentence shall run concurrently with such previous sentence.

Whenever in the above cases, the subsequent sentence runs concurrently with the previous sentence and expires before the period of the previous sentence, the prisoner should be detained for the remainder of the period of the previous sentence."

R. RANGA RAO,
General Secretary to Government.

To—The Inspector-General of Prisons in Mysore.
The Registrar of the Chief Court of Mysore.
The District Magistrates of Districts.

Exd.—P. S. R. N.

WD 2550—GPB—450—13-3-29.